

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS**

TYLER DIVISION

DATE: January 21, 2010

JUDGE
LEONARD DAVIS

COURT REPORTER
Shea Sloan

Law Clerks: Natalie Alfaro

SOVERAIN SOFTWARE, LLC vs. NEWEGG, INC. LTD	CIVIL ACTION NO: 6:07-CV-511 PRETRIAL CONFERENCE
ATTORNEYS FOR PLAINTIFF	ATTORNEYS FOR DEFENDANTS
Ken Adamo (Jones Day) Barry Satine (Jones Day) Ognjan Shentov (Jones Day) Thomas Giannetti (Jones Day) Michael Smith (Siebman Reynolds) Katherine Wolanyk - Client Representative	Claudia Frost (Pillsbury Winthrop Shaw) Daniel Brean (Webb Law Firm) David Hanson (Webb) Kent Baldauf (Webb) Richard Sayles (Sayles Werbner) Mark Strachan (Sayles) Trey Yarbrough (Yarbrough Firm) Mira Wolff (Newegg)

On this day, came the parties by their attorneys and the following proceedings were had:

OPEN: 10:10 am

ADJOURN: 12:30 pm

10:10 am	Case called. Mr. Smith, Mr. Adamo, Mr. Satine, Mr. Shentov and Mr. Gianniti announced ready for plaintiff. Also present, Katherine Wolanyk, client representative.
	Mr. Sayles, Mr. Strachan, Mr. Yarbrough, Mr. Brean, Mr. Hanson, Mr. Baldauf and Ms. Frost announced ready for Defendant. Also present, Mr. Lee Chang and Ms. Mira Wolff, Client Representatives.
	Court addressed the parties and will begin with the <i>Daubert</i> motions.
	Court will first hear Newegg's Motion in regard to Nawrocki.
	Mr. Brean presented Newegg's Motion to Exclude the Opinions of James Nawrocki (Dkt #252).
	Mr. Satine responded. Mr. Brean responded. Court denies Motion.

DAVID J. MALAND, CLERK

FILED: 1.21.2010

BY: Rosa L. Ferguson , Courtroom Deputy

	Mr. Shentov presented Soverain's Motion to Exclude Expert Testimony of Edward R. Tittel (Dkt #253).
	Mr. Hanson responded. Mr. Shentov responded. Court and parties discussed. Court denies motion , and cautions Newegg about opinions outside the Court's claim construction.
	Mr. Satine presented Soverain's Motion to Strike Portions of Newegg's Damages Expert (Dkt #243).
	Mr. Brean responded. Mr. Satine replied. Mr. Satine addressed Motion to Exclude Certain Opinions of W. Christopher Bakewell (Dkt #254). Mr. Brean further responded. Mr. Satine further replied. Court denies motion (Dkt #254) but without prejudice to object at time of trial.
	Court addressed the parties regarding Soveraine's Motion regarding Trevor being moot. Mr. Giannetti responded. Mr. Baldauf responded. Court denies as moot (Dkt #242).
	Court addressed the parties on Motion in Limine - Dkt #287.
	Mr. Adamo addressed the Court. Mr. Giannetti presented Soverain's Motion in Limine to Preclude the Testimony of Trevor at Trial (Dkt #287).
	Mr. Brean responded. Mr. Giannetti replied. Court and parties discussed theory of the mall. Court denies motion. Court will grant leave to take a deposition.
	Court will move on the summary judgments. Mr. Adamo addressed the Court on the corroborations.
	Mr. Adamo presented Soverain's Motion in Limine (20) dealing with the corroboration; (23) deals with manuals being hearsay and (28) challenges whether the manuals are receivable as prior art. Mr. Adamo tendered three manuals to the Court.
	Mr. Hanson responded. Mr. Adamo responded. Court and parties discussed. Court will take this motion under advisement.
	Court will move on to Summary Judgments.
	Mr. Brean presented Newegg's Motion for Summary Judgment (Dkt #221)
	Mr. Giannetti responded. Mr. Brean replied. Court and parties continued to discuss.
	Court denied Motion (Dkt #221).
	Mr. Hanson presented Newegg's Motion for Partial Summary Judgment (Dkt #247). Court is not going to grant a SJ on this.
	Court has about the same opinion on Soverain's Motion for Partial Summary Judgment (Dkt #230), but has questions as to claim construction issues. Mr. Shentov responded on packet switch network.
	Mr. Baldauf responded as to the claim construction issue. Court asked parties to file something if they wished to on the claim construction issues. Court inquired if they wished to be heard on the summary judgment.
	Mr. Shentov presented Soverain's Motion for Summary Judgment (Dkt #230).
	Mr. Baldauf responded. Mr. Shentov replied. Mr. Baldauf further responded. Court will take last two motions under advisement and carry them

	Court instructed parties to get together on Motions in Limine.
	Court will allow 30 minutes for voir dire, 30 minutes for opening, 12 hours for direct and cross and 60 minutes for closing. Court asked parties to meet and confer on jury instructions and get a combined version back to the Court.
	Court approved the joint jury questionnaire.
	Court advised the parties on trial dates. Court will select jury on February 1. Court discussed the pending criminal trial, which may plead. Court will finish the criminal case on the 8 th or 9 th . Court will set the Smith case on the 9 th . Court will begin evidence on February 19 full day, and continue on Monday, Tuesday and Wednesday, the 22nd, 23rd, & 24 th . Court advised the parties of sentencings and other hearings that week. Court is out of town on 25 and 26 th , then Court will resume on March 1 or that afternoon or possibly on March 2 nd .
	Mr. Adamo addressed the Court on an expert witness scheduling problem.
	Court asked both parties regarding April if both sides have an interest in having April. Mr. Sayles addressed the Court on scheduling. Mr. Smith addressed the Court on a setting. Mr. Sayles inquired as to how long the Court will go.
	Mr. Sayles addressed the Court on the jury questionnaire.
	Court inquired as to mediation. Ms. Wolanyk addressed the Court on mediation. Mr. Chang addressed the Court on mediation. Court asked parties to continue to talking. Parties responded. Court would negotiate in good faith and get it resolved.
	Mr. Adamo addressed the Court.
	Mr. Sayles addressed the Court on a demonstrative on the Newegg website. Mr. Adamo responded. Parties inquired as to a jury notebook. Court will allow if the parties will agree.
	Court addressed the parties on admission of exhibits.
12:30 pm	There being nothing further, Court adjourned.